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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,886

12/21/2004

Glenn Edward Jones

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EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

05/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,886	Applicant(s) JONES ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,11,12,14-18,23,24,26-33,35-41,44,45 and 47-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,11,12,14-18,23,24,26-33,35-41,44,45 and 47-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 11, 12, 14-18, 23, 24, 26-33, 35-41, 44 45 and 47-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsou et al. (WO 01/85837) in view of any one of Wadell et al. (US 2005/0027062), Dias et al. (US 2004/0132894), Jones et al. (2004/0087704) or Waddell et al. (US 20040030036).

Patentees disclose a composition having isobutylene elastomers and semicrystalline polymers (abstract) which include combinations of brominated butyl rubber and Exxon Exact plastomer , carbon black and curing agent (see the examples in Table 1 and especially Examples 3-6). Natural rubber may be added at page 9, lines 5-21 and polybutene oil may be added at least in part in place of the FLEXON of the examples at page 10, lines 18-20.

Tsou et al. disclose no examples using the specific isobutylene copolymer of claims 51 and 52 but discloses that they may be used at the paragraph bridging pages 8 and 9 and similarly Tsou disclose no examples having all of the components in combination. However, Tsou does disclose usage of applicants' individual components. Hence to arrive at applicants composition by selecting from the various components of

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the patent would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results. There are no examples in which all of Tsous' FLEXON or other oil is replaced by polybutene oil. However as set out in '894 at paragraph 98, '704 at paragraph 58, '036 at paragraph 67 and 69 and '062 at paragraph 175, use of polybutene oil decreases air permeability. Hence use of polybutene oil in amounts to decrease air permeability (a benefit in the composition of Tsou) or in amounts of other oils and thus completely replacing them (in that the primary reference discloses the interchangeability of polybutene and other oils) would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Ekdahl et al. at column 4, lines 55-59 discloses that polyethylene has a glass transition of minus 120 degrees while polypropylene has a Tg of minus 10 degrees. Kennedy, discloses at column 4, lines 62-67 that polyisobutylene has a Tg of minus 65 while Arens has a similar disclosure at column 4, lines 6-10. The above references were all previously cited.

Applicant's arguments filed 1-11-08 have been fully considered but they are not persuasive. Applicants provisional application does not support the full scope of the

instant claims for at least the reason that applicants plastomer melt index is not disclosed and applicants negative limitation in the last two lines of claim 1 (as well as in the other independent claims) is not present in the provisional application. Applicants' effective filing date is therefore 12-21-04. The disclosure of Tsou of "reduction" of plasticizer level implies that some unnamed amount of oils can be substituted with polybutene oil. For the reasons set out above it is the position of the examiner that use of polybutene oil entirely in place of other oils in Tsou would have been obvious to a practitioner in view of the cited references.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

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Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

5-13-05

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796